

I. REMARKS

In the Office Action mailed September 15, 2009 the Office Action rejected claims 81-100 under 35 U.S.C. § 112 first paragraph and second paragraph. The Office Action further rejected claims 97-100 under 35 U.S.C. § 101. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art. Applicant respectfully requests entry of the amendments. Applicant believes that entry of the amendments will put the application in allowable form. Applicant respectfully requests that the amendments are entered and the claims are allowed.

II. CLAIM REJECTIONS – 35 USC § 112

The Office Action rejected claims 81-100 under 35 U.S.C. § 112 first paragraph and second paragraph.

a. First Paragraph

The Office Action rejected claims 81 -100 stating that claim 81 contains the new matter, “does not form a spiral configuration.” This statement is not new matter and support for this statement is located in U.S. Patent Application Publication 2004/0097981 at paragraph [0080], which states, “Another advantage of the present inventive clip is that it does not form a spiral configuration. The proposed clip design is thus highly resistant to any accidental migration.” Because support for this statement is set forth in the specification Applicant believes this rejection is moot. Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

b. Second Paragraph

The Office Action rejected claims 81 – 100 stating that claim 81 is indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Without acquiescence in this suggestion Applicant has amended claim 81 to state that, “the clip does not form a spiral configuration.” No new matter has been added and support for this amendment can be found in paragraph [0080] referred to above. Further, Applicant believes the addition of this language renders the rejection

moot and the claim is consistent with the treatment in the Office Action. Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

III. CLAIM REJECTIONS – 35 U.S.C. § 101

The Office Action rejected claims 97 – 100 under 35 U.S.C. § 101 stating that the claims contain non-statutory subject matter. Without acquiescence to this suggestion Applicant has amended the claims. Applicant believes that the amendment renders the rejection moot. Applicant respectfully requests that the amendments be entered, the rejection be withdrawn, and the claims allowed.

IV. DOUBLE PATENTING

The Office Action rejected claims 81 – 100 based on non-statutory obviousness-type double patenting. Applicants submit herewith a terminal disclaimer in regards to U.S. Patent Application Serial No. 11/150,666.

V. CONCLUSIONS

In view of Applicant's remarks, the Examiner's previously presented rejections are believed to be rendered moot. Accordingly, Applicant submits that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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